



# CVCWA

## Central Valley Clean Water Association

*Representing Over Fifty Wastewater Agencies*

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October 26, 2012

*Via Electronic Mail*

Danny McClure  
Regional Water Quality Control Board  
Central Valley Region  
11020 Sun Center Drive #200  
Rancho Cordova, CA 95670  
[dmclure@waterboards.ca.gov](mailto:dmclure@waterboards.ca.gov)

**Re: Comments on the Administrative Draft Basin Plan Amendment for Diazinon and Chlorpyrifos for the Sacramento River and San Joaquin River Basins**

Dear Mr. McClure:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to submit these comments on the Administrative Draft Basin Plan Amendment for Diazinon and Chlorpyrifos for the Sacramento and San Joaquin River Basins (Draft Amendments). CVCWA is a non-profit organization representing more than 50 publicly-owned treatment works (POTWs) throughout the Central Valley Region in regulatory matters affecting surface water discharge, land application, and water reuse. We approach these matters with a perspective that balances environmental and economic interests consistent with state and federal law. With respect to the Draft Amendments, CVCWA is concerned primarily with the requirement that waste load allocations would be assigned to all POTWs, even if their discharge does not exhibit reasonable potential. CVCWA also has concerns with the proposed monitoring requirements for POTWs.

As a preliminary matter, CVCWA believes that it is important to recognize that the presence of diazinon and chlorpyrifos in wastewater effluent is increasingly rare, and, if found at all, rarely exceeds existing applicable water quality objectives, where such numeric objectives have been adopted. This is due in large part to the legal restrictions on use of such products for

domestic uses, which is now fully implemented. Most importantly, as you know, these products are no longer available for homeowner use. Considering the limited presence of such constituents in wastewater effluent, we believe that publically-owned wastewater treatment facilities (POTWs) should be considered and recognized as a *de minimus* source of such constituents.

As proposed, the Draft Amendments would require all POTWs with NPDES permits in the Central Valley (downstream of specified dams) to be assigned a waste load allocation. The waste load allocations would then be implemented as water quality based effluent limitations in permits where there was one or more valid effluent monitoring data point that exceeds the method detection level for either diazinon or chlorpyrifos. This would apply even if the effluent did not otherwise have reasonable potential to cause or contribute to a violation of a water quality objective.

CVCWA contends that this proposed approach is inconsistent with and violates applicable federal regulations. Specifically, water quality based effluent limitations are required when necessary to achieve water quality standards. (40 CFR, §122.44(d)(1).) Such limitations are for pollutants that are found to be discharged at levels that will cause, *or have reasonable potential to cause, or contribute to an excursion above any water quality standards.* (40 CFR, §122.44(d)(1)(i) emphasis added.) The federal regulations then state that when developing water quality based effluent limitations *under this paragraph* that they must be “consistent with the assumptions and requirements of any available wasteload allocation.” (40 CFR, § 122.44(d)(1)(vii).) In other words, only if limitations are necessary (i.e., the discharge has reasonable potential) must they then be consistent with an available wasteload allocation. Accordingly, the Draft Amendments must be revised to clarify that the proposed waste load allocations and requirement for effluent limitations for NPDES permittees only apply if the discharge exhibits reasonable potential. Otherwise, POTWs will be subjected to unwarranted effluent limitations, which trigger additional monitoring and reporting expenses.

With respect to the proposed monitoring, CVCWA contends that it is not appropriate to require POTWs to determine if their discharge of diazinon or chlorpyrifos causes or contributes to toxicity impairment due to additive or synergistic effects of multiple pollutants. Such a requirement appears to be a fairly detailed study requirement that would not be appropriate. As indicated previously, POTW discharges of these pesticides are *de minimus*. Thus, requiring such studies when any discharge of these pesticides is likely to be negligible cannot be supported. The cost of such a study would greatly exceed any value that the information would provide as it relates to POTW discharges of these pesticides.

Likewise, CVCWA contends that it is not appropriate to require POTWs to determine if alternatives to diazinon and chlorpyrifos are causing surface water quality impacts. POTWs do not have the legal authority to control use of pesticides by consumers. If there are concerns

with impacts from alternatives, the California Department of Pesticide Regulation maintains primary legal authority with respect to pesticide use. Such a study is improper for POTWs.

CVCWA appreciates the opportunity to provide these comments on the Draft Amendment. Please contact me if you have any questions with respect to our comments.

Sincerely,



Debbie Webster  
Executive Officer

c: Pamela Creedon (via email)